indicating that his intention as expressed at the time the demand was made was in fact his intention, regarding the use to which the money was to be put.

In our view, therefore, the evidence complained of by Mr. Nair was admissible under section 11 and also under section 14 of the Evidence Ordinance, and the appeal is accordingly dismissed.

Appeal dismissed.

DAIMON BIN BANDA v. PUBLIC PROSECUTOR.

[App. Crim. Juris. (Taylor, J.) January 25, 1951]

[K.L. — Criminal Appeal No. 80 of 1950]

Prevention of Corruption Ordinance, 1950, s. 13(3) — Whether the provision of s. 13(3) does or does not abrogate the settled law with regard to accomplices — Police investigation report — Admissibility of — Criminal Procedure Code, s. 113.

Where in a case witnesses are accomplices and not independently corroborated it is settled law that it is not safe to convict on such evidence unless, having been carefully directed on the law, the trial Court decides that in the special circumstances of the case such evidence can be believed. The provision of section 13(3) of the Prevention of Corruption Ordinance, 1950, does not abrogate the rule; it introduces only a limited modification. This sub-section is in the nature of an exception to a standing rule of evidence and, as an exception, it must be construed strictly.

CRIMINAL APPEAL.

A. J. Bostock-Hill for the appellant.

A. M. I. Austin (D.P.P.) for the respondent.

Taylor, J. : — The appellant, who is a detective, was convicted of corruptly receiving $100/-. The witnesses were accomplices and not independently corroborated. It is settled law that it is not safe to convict on such evidence unless, having been carefully directed on the law, the trial Court decides that in the special circumstances of the case such evidence can be believed. In this case the judgment of the learned Magistrate contains no indication that he had these principles in his mind.

The Deputy Public Prosecutor suggested that in corruption cases the rule does not apply by reason of section 13(3) of the Prevention of Corruption Ordinance, 1950. That provision, however, does not abrogate the rule. It introduces only a limited modification. It does not apply to accomplices generally. The word "accomplice" does not appear in the sub-section. The effect of the new provision is that in corruption cases the mere fact that a man has made an improper payment is not by itself enough to brand the man as a person whose evidence, if uncorroborated, is probably untrustworthy. If the man has taken part in the transaction in such a way as to show that, apart from the bare payment, he was an accomplice, then the ordinary rule applies.

The sub-section is in the nature of an exception to a standing rule of evidence and, as an exception, it must be construed strictly. It must not be extended. If it appears that a man has made a payment and therefore may be within this exception, it is necessary to scrutinise his evidence very carefully. The Court may decline to convict on the uncorroborated evidence of such a witness. It is highly desirable that whenever a Magistrate applies this sub-section he should specifically refer to it in his judgment and analyse the evidence of the witnesses concerned.

The Deputy Public Prosecutor also pointed out that a police investigation report had been put in at the trial and that this might, under the Evidence Ordinance, be regarded as corroboration of the evidence of the witness who made it; he admitted that it was of slight weight only, not having been made until two months after the event. Actually, this document was not admissible and ought not to have been proved. First information reports to the police are admissible. Statements made during investigation are not admissible. In this case the police received some information but, apparently, did not then record a formal report but commenced the investigation and recorded the so-called report later. There are cases where it is necessary to commence investigation without waiting for a formal report to be recorded; in such a case it may be convenient for a later statement to be recorded for police purposes in the form of a report; but, however that may be, such a report is, for the purposes of section 113 of the Criminal Procedure Code, an investigation statement and therefore inadmissible (except in special circumstances).

It is clear that the appellant was convicted on the uncorroborated evidence of witnesses who were accomplices in the full sense, so that section 13(3) does not apply, and as the Magistrate omitted to caution himself, the conviction cannot stand; the appeal therefore was allowed.

Appeal allowed.